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MINNEAPOLIS, MN 55402-0903				
EXAMINER				
NGUYEN, KEVIN M				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/786,041

Applicant(s)

KONG, YUAN

Examiner

KEVIN M. NGUYEN

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 11, 37, 38, 41, 44-47, 49, 50 and 52 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-5 and 11 is/are allowed.
6) ☒ Claim(s) 37, 38, 41, 44-47, 49, 50 and 52 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Application and Claims Status

Applicant's amendment and response filed on 9/23/2008 are acknowledged and entered.

Applicants have amended claims 1-5, 11, 37, 38, 41, 44-47, 49, 50 and 52, and cancelled claims 6-10, 12-36, 39, 40, 42, 43, 48 and 51. Therefore, claims 1-5, 11, 37, 38, 41, 44-47, 49, 50 and 52 are currently pending and are under consideration in this Office Action.

Response to Arguments

Applicant's arguments, see pages 7-9, filed on 9/23/2008, with respect to previous rejection of claims 1-5 and 11 have been fully considered and persuasive. Therefore, the rejection of claims 1-5 and 11 are withdrawn.

Allowable Subject Matter

Claims 1-5 and 11 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: with respect to independent claim 1, the prior art of record does not fairly teach the claimed "wherein the first navigation mode the navigation control moves at a first sensitivity in accordance with the physical input, and in the second navigation mode the navigation control moves at a second different sensitivity in accordance with the same physical input such that in the first navigation mode the navigation control moves by an amount that has a first relationship with the movement of the pointing device, and in the second navigation mode the navigation control moves by an amount that has a second different relationship with the movement of the pointing device, the navigation control moving linearly in accordance with the movement of the

pointing device in both the first and second navigation modes” along with the other claimed limitations.

Claims 2-5 and 11 are dependent claims are also allowable under same reasons as discussed for independent claim 1.

Response to Arguments

Applicant’s arguments, see pages 9-11, filed on 9/23/2008, with respect to previous rejection of claims 37, 38, 41, 44-47, 49, 50 and 52 have been fully considered and are NOT persuasive. The amendment necessitated the new ground(s) of rejection presented in this Final office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

When the interpretation of the claim(s) is or may be in dispute, i.e., given one interpretation, a rejection under 35 U.S.C. 102 is appropriate and given another interpretation, a rejection under 35 U.S.C. 103(a) is appropriate.

When the reference discloses all the limitations of a claim except a property or function, and the examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention but has basis for shifting the burden of proof to applicant as In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980).

Claims 37, 38, 41, 44-47, 49, 50 and 52 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over **Hashimoto et al.** (US 5,554,980, Hashimoto).

As to claim 37, an apparatus, comprising: a sensor configured to sense a physical input, the apparatus configured to control two-dimensional movement of displayed a navigation control in accordance with the physical input (in the alternate embodiment, figure

35, Hashimoto teaches a pointing device 1 comprising a sensor 2 which detects a physical input, e.g., col. 25, lines 54-67; control processor 24 control the movement of the cursor 108 in accordance with the physical input, col. 26, lines 10-15) **a selector having a first state and a second state** (in the alternate embodiment, figure 46, Hashimoto further teaches a selection switching 57 comprises a first stage switching 9, and a second stage switching 57a, col. 29, lines 20-30) **the apparatus configured to control the two-dimensional movement of the displayed navigation control at either a first sensitivity or a second sensitivity depending upon whether the selector is in a first state or a second state** (in the alternate embodiment, figures 6 and 7, Hashimoto further teaches the white cursor 108 is displayed on the menu screen 220 corresponding to the first display state as claimed; and the black cursor 108 is changed to be displayed on the selecting desired icon 222 corresponding to the second display state as claimed, col. 15, lines 45-67; figs. 6 and 7) **in accordance with the same physical input** (in the alternate embodiment, Hashimoto further teaches the following: with respect to the angular motion (speed) detectors 2 and 3, the pointing device 1 is oriented toward the front, back, left or right in space to point the desired icon, col. 25, lines 64-67; fig. 33; and with respect to the acceleration detectors 19 and 19a, the pointing device 1 is oriented toward the front, back, left or right in space to point the desired icon, col. 33, lines 27-30; fig. 64. Therefore, the pointing device 1 is oriented with the same physical input) **depending upon whether the selector is in a first state or a second state, wherein the selector is angular sensor configured to sense an angle of the apparatus, wherein the first state is associated with a first angle of the apparatus and the second state is associated with a second angle of the apparatus** (in the alternate embodiment, figure 20, Hashimoto further teaches in col. 21, lines 8-17).

As to claim 38, the apparatus of claim 37, further including a Left click button and a Right click button in addition to the selector (in the alternate embodiment, Hashimoto conventionally discloses the computer mouse 103 including a Left click button and a Right click button, see figure 73, prior art)

As to claim 41, the apparatus of claim 37, wherein the physical input is translation of the apparatus (Hashimoto further teaches in col. 34, lines 43-46)

As to claim 44, the apparatus of claim 37, wherein the displayed navigation controls is a displayed cursor (Hashimoto teaches the cursor 108, see figures 6 and 7).

As to claim 45, a pointing device configured to communicate with navigation software running on a computer having a display, the pointing device comprising: (in the alternate embodiment, figure 35, Hashimoto teaches a pointing device 1 comprising a sensor 2 which detects a physical input, e.g., col. 25, lines 54-67; control processor 24 control the movement of the cursor 108 in accordance with the physical input, col. 26, lines 10-15) **a selector configured to switch between a first state and a second state responsive to a first physical input** (in the alternate embodiment, figure 46, Hashimoto further teaches a selection switching 57 comprises a first stage switching 9, and a second stage switching 57a, col. 29, lines 20-30) **wherein the selector is an angular sensor configured to sense an angle of the pointing device, and wherein the first state is associated with a first angle of the pointing device and the second state is associated with a second angle of the pointing device** (in the alternate embodiment, figure 20, Hashimoto further teaches in col. 21, lines 8-17) **a sensor coupled to the selector and configured to sense a second physical input** (in the alternate embodiment, figure 67, Hashimoto further teaches acceleration detectors 19a and 19b electrically connected to the

selection switching 57a which detect the acceleration physical input, col. 33, lines 27-32) **the pointing device configured to request the navigation software to translate a navigation control across the display at a first sensitivity in accordance with the second physical input while the selector is in the first state** (in the alternate embodiment, figure 33, Hashimoto further teaches with respect to the angular motion (speed) detectors 2 and 3, the pointing device 1 is oriented toward the front, back, left or right in space to point the desired icon, col. 25, lines 64-67; fig. 33) **and to request the navigation software to translate the navigation control across the display at a second sensitivity in accordance with the second physical input while the selector is in the second state** (and with respect to the acceleration detectors 19 and 19a, the pointing device 1 is oriented toward the front, back, left or right in space to point the desired icon, col. 33, lines 27-30; fig. 64).

As to claim 46, the pointing device of claim 45, further including a Left click button and a Right click button in addition to the selector (in the alternate embodiment, Hashimoto conventionally discloses the computer mouse 103 including a Left click button and a Right click button, see figure 73, prior art).

As to claim 47, the pointing device of claim 45, wherein the selector has different physical positions each representing a different one of the first and second states (in the alternate embodiment, figure 20, Hashimoto further teaches in col. 21, lines 8-17).

As to claim 49, the pointing device of claim 45, wherein the second physical input is translation of the apparatus. (Hashimoto further teaches in col. 34, lines 43-46).

As to claim 50, the pointing device of claim 45, wherein the apparatus is configured to translate upon a surface, the selector being responsive to pressure applied to the apparatus

against the surface, the selector configured to be in either the first state or the second state depending upon an amount of the pressure (Hashimoto teaches in col. 29, lines 20-30).

As to claim 52, the pointing device of claim 45, wherein the displayed navigation controls is a displayed cursor (Hashimoto teaches the cursor 108, see figures 6 and 7).

Response to Arguments

Applicant's arguments with respect to claims 37, 38, 41, 44-47, 49, 50 and 52 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN M. NGUYEN whose telephone number is (571)272-7697. The examiner can normally be reached on Monday-Thursday from 8:00-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin M Nguyen/
Primary Examiner, Art Unit 2629

KMN
December 19, 2008